

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VII

901 N. 5<sup>TH</sup> STREET

KANSAS CITY, MISSOURI 66101

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ENVIRONMENTAL PROTECTION  
AGENCY-REGION VII  
REGIONAL HEARING CLERK

BEFORE THE ADMINISTRATOR

IN THE MATTER OF )

SWISS VALLEY FARMS, )

RESPONDENT )

) Docket No. EPCRA-07-2002-0096

) CONSENT AGREEMENT AND

) FINAL ORDER

PRELIMINARY STATEMENT

This proceeding for the assessment of a civil penalty was initiated on March 20, 2002, pursuant to Section 325 Of the Emergency Planning and Community Right to Know Act (EPCRA), 42 U.S.C .Section 11045, when the United States Environmental Protection Agency (Complainant or EPA) issued to Swiss Valley Farms (Respondent) a Complaint and Notice of Opportunity for Hearing.

The Complaint charged Respondent with violations of EPCRA Sections 312 and 313, 42 U.S.C. Sections 11022 and 11023, and the regulations promulgated and codified at 40 C.F.R. Parts 370 and 372.

Subsequently Complainant and Respondent entered into negotiations in an attempt to resolve the Complaint. The Consent Agreement and Final Order set forth herein below is the result of these negotiations and represents settlement of this Complaint.

CONSENT AGREEMENT

It is hereby agreed and accepted by Respondent, that:

1. This Consent Agreement is entered into by the parties in full settlement of, and release from all EPCRA civil penalties that might have attached as a result of the allegations in the Complaint. Respondent has read the Consent Agreement, finds it reasonable and consents to the issuance and its terms and explicitly waives its right to request a hearing on the Complaint, this Agreement, or the attached Final Order.

2. Respondent admits the jurisdictional allegations of the Complaint and admits the facts stipulated in this Consent Agreement.

3. Respondent neither admits nor denies the violations of EPCRA as set forth in the Complaint.

4. Respondent certifies that by signing this Consent Agreement and Final Order that to its knowledge it is presently in compliance with EPCRA Section 11001 et. Seq., and all regulations promulgated thereunder.

5. Nothing in this Consent Agreement shall be construed as a release from, or to insulate Respondent from, any other action under any law and/or regulation administered by the U.S. Environmental Protection Agency.

6. Failure to pay the assessed penalty may result in the referral of this matter to the United States Department of Justice for collection.

7. Each party shall bear its own costs and attorney's fees in the action resolved by this Consent Agreement.

8. Each signatory of this Agreement certifies that he or she is fully authorized to enter into this Consent Agreement and Final Order.

9. Respondent consents to the issuance of the Final Order hereinafter recited and consents to the payment of a mitigated civil penalty as specified in paragraph 2 of this Final Order.

#### FINAL ORDER

Pursuant to Section 325 of EPCRA, 42 U.S.C. Section 11045, and upon information contained in this Consent Agreement of the parties herein, IT IS HEREBY ORDERED THAT:

1. Respondent in settlement of the allegations set forth in this Complaint, shall pay by cashier's or certified check, a civil penalty, for the violations cited herein, in the amount of Thirteen Thousand and Ninety Dollars (\$13,090.00), payable to the "Treasurer, United States of America" and such check shall be mailed to: U.S. EPA-Region VII (Regional Hearing Clerk), c/o of Mellon Bank, P.O. Box 360748M, Pittsburgh, Pennsylvania 15251. The payment shall be identified as In the Matter of Swiss Valley Farms. A copy of the check shall be forwarded to Rupert G. Thomas, Office of Regional Counsel, Region VII, 901 North 5<sup>th</sup> Street, Kansas City, Kansas 66101.

2. The payment of \$13,090.00 shall be paid on or before 30 days after the effective date of the Final Order (the date by which the payment must be made shall hereafter be referred to as the "due date"). The effective date of this Order shall be the date on which it is signed by the Regional Judicial Officer.

3. If the payment is not received on or before the due date, interest will be assessed at the annual rate established by the Secretary of the Treasury pursuant to 31 U.S.C. Section 3717. The interest will be assessed on the overdue amount from the due date through the date of payment.

COMPLAINANT  
U.S. ENVIRONMENTAL PROTECTION AGENCY

By: 

Rupert G. Thomas  
Attorney  
Office of Regional Counsel

Date: 7/12/02

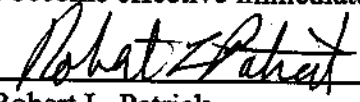
RESPONDENT:  
SWISS VALLEY FARMS

By: 

Title: VP - Fluid Division

Date: 7/1/02

IT IS SO ORDERED. This Order become effective immediately.

  
Robert L. Patrick  
Regional Judicial Officer  
Region VII

Date: July 22, 2002

IN THE MATTER OF Swiss Valley Farms, Respondent  
Docket No. EPCRA-07-2002-0096

CERTIFICATE OF SERVICE

I certify that the foregoing Consent Agreement and Final Order was sent this day in the following manner to the addressees:

Copy hand delivered to  
Attorney for Complainant:

Rupert G. Thomas  
Senior Assistant Regional Counsel  
Region VII  
United States Environmental Protection Agency  
901 N. 5<sup>th</sup> Street  
Kansas City, Kansas 66101

Copy by Certified Mail,  
Return Receipt Requested, to:

Terry M. Giebelstein  
Lane & Waterman  
220 North Main Street, Suite 600  
Davenport, Iowa 52801-1987

and

Copy by First Class Pouch Mail to:

Honorable Susan L. Biro  
Chief Administrative Law Judge  
U. S. Environmental Protection Agency  
401 M Street, S.W./Mail Code 1900L  
Washington, D. C. 20460

Honorable Thomas W. Hoya  
Administrative Law Judge  
U. S. Environmental Protection Agency  
401 M Street, S.W./Mail Code 1900L  
Washington, D. C. 20460

Dated: 7/23/02



Kathy Robinson  
Regional Hearing Clerk